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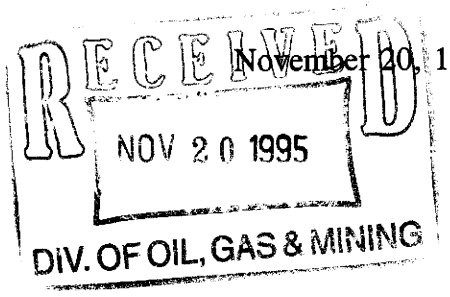


November 20, 1995

Mr. James Carter, Director
UTAH DIVISION OF OIL, GAS & MINING
3 Triad Center, Suite 350
355 West North Temple
Salt Lake City, Utah 84180-1203

RE: NOV 95-39-2-2, NEVADA ELECTRIC INVESTMENT COMPANY, WELLINGTON PREPARATION PLANT, CAUSE NO. ACT/007/012

Dear Director Carter:

On behalf of Nevada Electric Investment Company ("NEICO"), we respectfully request that you reconsider the findings set forth in your order in the above-entitled matter dated November 3, 1995 (with a certificate of mailing of November 9, 1995). Since the informal hearing in this matter, NEICO has determined that the District Manager of the Mine Safety & Health Administration ("MSHA") has been on notice regarding the slope configuration of the Wellington Refuse Pile for more than 19 years. Enclosed as Exhibit A is a report which was submitted by United States Steel Corporation ("U.S. Steel"), to the District Manager on April 23, 1976, regarding plant refuse pile MSHA I.D. No. 1211-UT-9-0010. In that report, U.S. Steel specifically noted that "The slopes of the refuse pile exceed 2:1 (27°), but it is located in an area where no impoundment of water can occur to cause failure of the pile." Due to the fact that MSHA has been on notice that the refuse pile exceeds 2h:1v since 1976, we believe that the District Manager has constructively approved the current pile configuration.

The April 23, 1976 report was not made available to NEICO prior to the informal hearing in this matter. Had NEICO produced the 1976 report at the informal hearing, the Division would have concluded that MSHA had approved the refuse pile. See Findings of Fact, ¶ 5. Therefore, we request the Division to reconsider its Order and vacate the NOV.

In the alternative, if the Division will not vacate the NOV, NEICO requests that the Division terminate the NOV effective November 10, 1995. On that date, NEICO abated N95-39-2-2 by requesting the MSHA District Manager to either confirm that the 1976 Report constitutes approval of the pile configuration or to grant a variance.

Further, if the NOV is not terminated, NEICO requests an indefinite extension of the abatement period to enable MSHA to process the variance request consistent with Utah Admin. R645-400-324. On November 10, 1995, NEICO submitted to MSHA a request for variance and has no control over MSHA's processing of the request.

Finally, if this NOV is upheld, NEICO requests that the Division find the NOV to be a mere hindrance violation mitigated by NEICO's prompt provision of the enclosed report to MSHA. We ask that the Division take into consideration the enclosed letter of November 10, 1995, the April 23, 1976 MSHA Report and the 1995 Geotechnical Report in any NOV penalty assessment.

Thank you for your consideration in this matter.

Very truly yours,

Denise A. Dragoo

DAD:jmc:87672
Enclosure
cc: Richard Hinckley, Esq.
Patrick D. Collins
Gregory J. Poole

EXHIBIT A

REFUSE PILE REPORT

77.215-2 Refuse Pile; reporting requirements:

(1) UNITED STATES STEEL CORPORATION
WESTERN DISTRICT- COAL

Wellington Coal Preparation Plant

Address P.O. Box 437, Wellington, Utah

Identification Number: M.E.S.A. 42-000-99 Plant
the Owner and Operator do hereby submit to the District Manager, on this day 23 April, 1976, a report in triplicate of the following:

Refuse Pile Name Plant Refuse Pile
Refuse Pile Identification Number 1211-UT-9-0010

(2) The location of the refuse pile is shown on the attached map:
USGS 7 1/2 minute [X] or 15 minute [ ] Quadrangle
U.S. Steel Corporation, Equivalent Scale Topographic Map [ ] .

(3) Attached is a statement of the Construction History of the above refuse pile which:

Remains unchanged (except for age) [X] , or is modified [ ] , _____

Abandoned [ ] , according to a plan submitted and approved by the District Manager on _____, 19____, _____

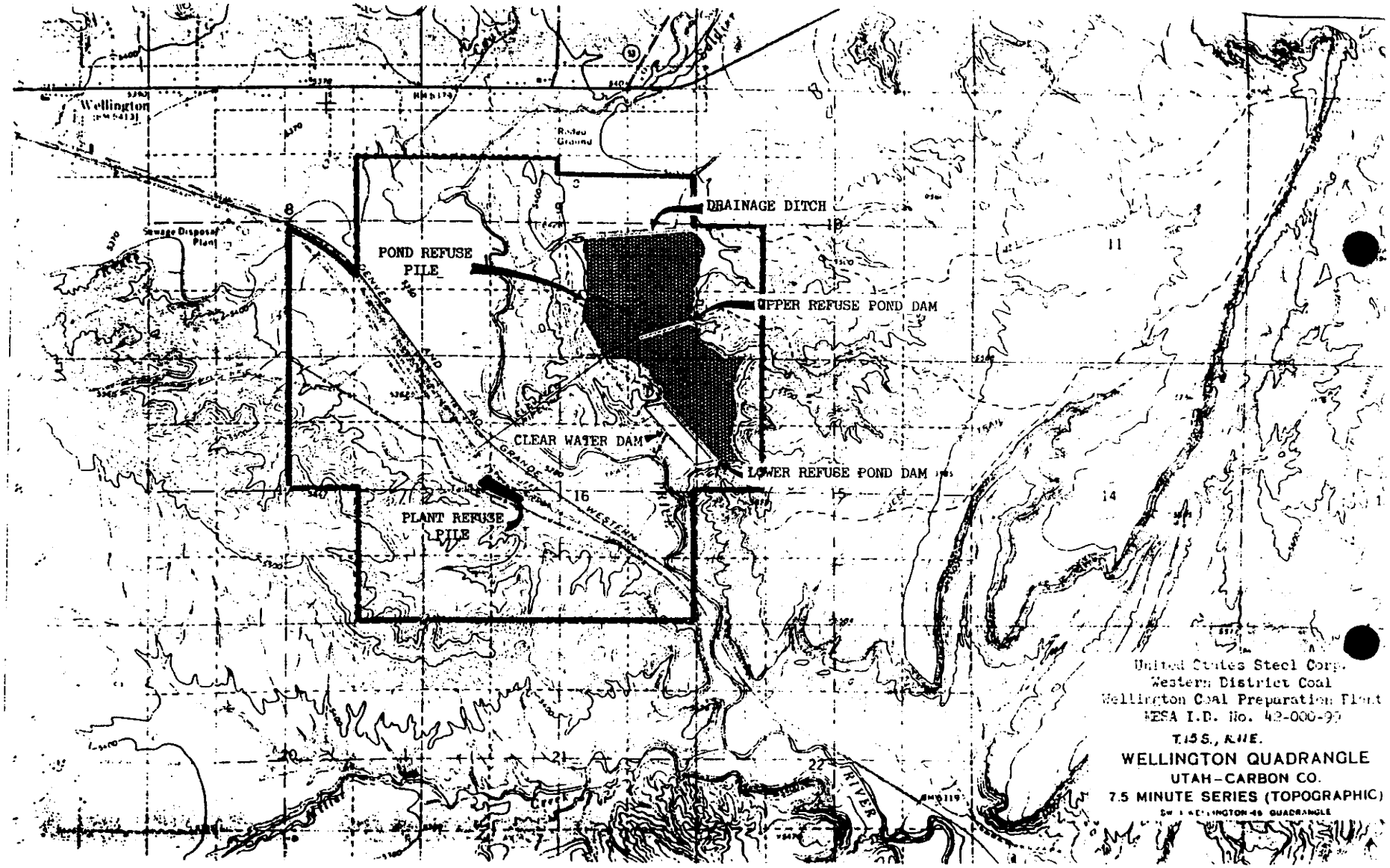
(4) Attached is a topographic map at a scale of 1" = 200 feet, showing the present and proposed maximum extent of the refuse piles and the area 500 feet around the proposed maximum perimeter.

(5) A statement of fires or ignition of fires and procedure of extinguishment:
No fires.

(6) A description of measures used to prevent impoundment of water by or within the refuse pile: Compaction of refuse in 5') lifts with surface graded at 3% from crest to allow surface water runoff

(7) Attached is a drawing(s) showing the cross sections of the refuse pile at a scale of 1 inch = 40 feet, which show the approximate original ground surface, the present configuration and the proposed maximum extent of the refuse pile at mean sea level elevations.

(8) A statement pertaining to the stability of the refuse pile as required by the District Manager As specified by law (F.R. 77.215 (h),(i)) compaction in lifts, graded surfaces and 2:1 side slopes provide sufficient stability.


DRAINAGE DITCH
POND REFUSE PILE
UPPER REFUSE POND DAM
CLEAR WATER DAM
LOWER REFUSE POND DAM
PLANT REFUSE PILE
Wellington
Sewage Disposal Plant
RIO GRANDE WESTERN
RIVER
United States Steel Corp.
Western District Coal
Wellington Coal Preparation Plant
MESA I.D. No. 42-000-99
T.15S., R.11E.
WELLINGTON QUADRANGLE
UTAH-CARBON CO.
7.5 MINUTE SERIES (TOPOGRAPHIC)

77.215-2 (3) Construction History Attachment- Plant Refuse Pile
Identification Number: 1211-UT-9-0010

This refuse pile was started in March of 1958. It consists of plus 1/4 inch mine reject from a heavy media plant. It is used only when a problem occurs in the refuse crushing or pumping system of the plant. The refuse material is hauled from the plant refuse by-pass bin to the area by truck and dumped. The piles of refuse are layered and compated by dozer for additional dumping.

The slopes of the refuse pile exceed 2 to 1 (27°), but it is located in an area where no impoundment of water can occur to cause failure of the pile.

EXHIBIT B

Applied Geotechnical Engineering Consultants, Inc.

SLOPE STABILITY STUDY

COAL REFUSE PILE

WELLINGTON COAL PREPARATION PLANT

WELLINGTON, UTAH

PREPARED FOR:

MT NEBO SCIENTIFIC
330 EAST 400 SOUTH, SUITE 6
PO BOX 337
SPRINGVILLE, UTAH 84663

ATTENTION: PATRICK D COLLINS, PHD

PROJECT NO. 34095

JUNE 27, 1995

7109 South 185 West, Suite A • Midvale, Utah 84047 • (801) 566-6399 • FAX (801) 566-6493

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TABLE OF CONTENTS

CONCLUSIONS

1. The subsoils encountered at the site consist of clay overlying interlayered silt and clay overlying sand and gravel. The sand and gravel was encountered at depths ranging from approximately 24 to 30 feet below the ground surface at the base of the refuse pile.

2. The existing coal refuse pile is approximately 18 to 30 feet in height and consists of silty gravel with sand, cobbles and occasional small boulders. The exterior side slopes range from approximately 1.4 to 5:1 (horizontal to vertical).

3. The refuse pile in its present condition is stable and has a safety factor against failure through the foundation soils of greater than 1.5. The safety factor against failure through the refuse is approximately 1.1. Failure through the refuse pile would be shallow failures of the exterior steep slopes and would not jeopardize the overall stability of the refuse pile.

SCOPE

This report presents the results of a Geotechnical Investigation for the existing condition and potential expansion of a coal refuse pile located at the U.S. Steel Coal Cleaning Facility near Wellington, Utah. The purpose of this investigation was to determine the subsurface conditions in the area of the coal refuse pile, determine the factor of safety of the existing refuse pile with respect to failure and to provide recommendations to obtain adequate slope stability factors of safety for the existing pile and potential expanded configuration.

Borings and test pits were excavated to obtain information on the subsurface conditions and to obtain samples for laboratory testing. Information obtained from the field and laboratory was used to define conditions at the site and to develop recommendations for the refuse pile.

This report has been prepared to summarize the data obtained during the study and to present our conclusions and recommendations based on the proposed construction and the subsurface conditions encountered.

SITE CONDITIONS

At the time of our field investigation, there was an existing coarse refuse pile approximately 350 feet wide and 1,200 feet in length. It extends approximately 30 feet above the original ground surface at its maximum point. Side slopes of the pile range from approximately 1.4 to 5:1 (horizontal to vertical). Somewhat flatter slopes exist on the western end of the pile for access to the top of the pile. There is a reclamation test plot at the northeast end of the pile which is approximately 450 feet in length. This area has been graded to approximately 4 to 5:1 (horizontal to vertical), planted and fenced off. The steepest exterior slopes are at the northwest and south-central portions of the refuse pile. Slopes in these areas appear to be near the angle of repose for the material.

There is some clay which has been piled along the western one-third of the refuse pile.

The surrounding ground surface slopes gently down toward the north/northeast. There are hills to the south of the site and relatively flat ground to the north, east and west.

There is an existing railroad north/northeast of the refuse pile and a coal handling facility to the northwest of the pile.

Vegetation at the site consists of grass and brush. There is very little vegetation on the refuse pile, except at the reclamation test plot.

FIELD STUDY

The field study was conducted on May 30 and 31, 1995. Four borings were drilled around the exterior of the existing refuse pile and 7 test pits were excavated in the refuse pile. The borings were drilled with 8-inch diameter hollowstem auger powered by a truck-mounted drill rig. The test pits were excavated with a rubber-tired backhoe. The borings and test pits were logged and soil samples obtained by a geologist from AGEC. Logs of the subsurface conditions encountered in are graphically shown on Figures 2 and 3 with Legend and Notes on Figure 4.

SUBSURFACE CONDITIONS

The natural soils at the site generally consist of clay and silt overlying sand and gravel. The sand and gravel was encountered at depths ranging from approximately 14 to 30 feet below the original ground surface. Approximately 8 and 4 feet of fill was encountered in Borings B-2 and B-4, respectively. The test pits were excavated entirely within the refuse pile and encountered fill the full depth investigated.

A description of the various materials encountered in the borings and test pits follows:

Fill - Two distinct types of fill were encountered at the site. Laboratory tests conducted on the refuse material indicate it contains a small amount of low plastic fines. The refuse pile generally consists of silty gravel with sand and cobbles up to approximately one foot in size. The refuse is moist, dark brown to black in color and contains pieces of coal and sandstone.

Fill outside and along the top of the refuse pile consists of lean clay to sandy lean clay with occasional gravel. It is slightly moist and ranges from brown to brownish gray in color.

Topsoil - The topsoil consists of lean clay to clay with sand. It is moist, dark brown in color and contains roots and organics.

Lean Clay - The clay contains a small to moderate amount of sand. Silt and clay layers were encountered which generally increased in frequency with depth. The clay ranges from stiff to hard and from moist to wet. Color ranges from brown to grayish brown.

Laboratory tests indicate the clay has a natural moisture content of 13 to 25 percent and a natural dry density of 99 to 107 pounds per cubic foot (pcf). Unconfined compressive strengths of 3,100 to 22,400 pounds per square foot were obtained for the clay.

Interlayered Lean Clay and Sandy Silt - The interlayered soil contains occasional silty sand layers. It is medium stiff to stiff, moist to wet, and ranges from brown to gray in color.

Laboratory tests indicate the interlayered soil has a natural moisture content of 20 to 27 percent and a natural dry density of 98 to 100 pcf.

Silty Sand - The sand contains occasional gravel. It is medium dense, wet, and ranges from brown to grayish brown in color.

Gravel - The gravel ranges from silty to clayey and contains a moderate amount of sand. Sand and silt layers were encountered within the gravel deposit. The gravel ranges from medium to very dense, wet, and brown to brownish gray in color.

Laboratory tests indicate the gravel has a natural moisture content of 8 percent and a natural dry density of 134 pcf.

SUBSURFACE WATER

Subsurface water was encountered at depths ranging from 16-1/2 to 24 feet below the ground surface at the base of the coal refuse pile. The water surface elevation ranges from approximately 5323 to 5326-1/2 based on the topographic map provided as a reference. These water levels are based on measurements taken one day after drilling and may not represent stabilized water levels. Slotted 1-1/2 inch PVC pipe was installed in the borings to facilitate future water level measurements.

LABORATORY TESTING

Laboratory testing was conducted to determine the engineering characteristics of the material obtained during the field investigation. Laboratory testing included natural moisture content, dry density, Atterberg Limits, grain-size distribution and strength tests. The results of the laboratory testing are summarized on Table I and are included on the Logs of Exploratory Borings and Test Pits.

A discussion of the laboratory testing procedures are presented below. The testing procedures are primarily those of the American Society for Testing Materials (ASTM).

Index Properties

The Unified Soil Classification System (ASTM D-2487) was used to classify the soil. This system is based on index property tests including the determination of natural moisture content (ASTM D-2216), liquid and plastic limits (ASTM D-4318) and grain-size distribution (ASTM D-422). Results of the grain-size distribution tests are presented on Figures 10 and 11.

Moisture/Density Relationship

The moisture/density relationship test was performed in general accordance with ASTM D-698. Results of the test are presented on Figure 9.

Triaxial Shear

Triaxial shear tests were performed in general accordance with ASTM D-4767. Samples were prepared by trimming the ends perpendicular to the sample axis and placing them in a latex membrane. The prepared samples were placed in the triaxial cell and saturated using back pressure saturation. Testing continued by placing consolidation loads of 7, 14 and 28 psi and loading the samples to near failure for each consolidation load. Sample strains, loads and pore pressures were monitored throughout each test. Results of the tests are presented on Figure 5 and 6.

Direct Shear

Direct shear tests were conducted in general accordance with ASTM D-3080 on two remolded samples of the coal refuse material which passed the No. 10 sieve. The samples were compacted to approximately 85 to 90 percent of the maximum dry density as determined by ASTM D-698. Each sample was tested to determine the shear strength under normal loads of 1,2 and 4 ksf. Results of the tests are presented on Figure 7 and 8.

PROPOSED CONSTRUCTION

We understand that the coarse refuse pile is being considered for potential expansion. The area proposed for the expansion is from the railroad south to the hills. This would approximately double

the area of the existing refuse pile. In addition, the refuse pile could be increased in height. We have assumed that the maximum height of the pile will be 50 feet. However, additional testing and analysis could be performed to determine if a greater pile height could be attained and continue to have an adequate safety factor. Our analysis also assumes that the coarse refuse material will continue to be used in expanding the pile.

STABILITY ANALYSIS

Stability of the existing and proposed expansion of the refuse pile was analyzed under several loading conditions. Factors of safety for the embankment were determined with respect to mass rotational and sliding wedge failures. The shear strength parameters used in the stability analysis were based on consolidated drained shear test information.

The subsurface profile used in the stability analysis was defined from the information obtained from the exploratory borings and laboratory test results. Strength parameters for use in the stability analysis were determined from the field and laboratory test results. The testing consisted of penetration resistance, triaxial shear, direct shear and pocket penetrometer tests. Laboratory tests were conducted on saturated or near-saturated samples. Based on these results and our judgement, strengths of the upper 30 feet of soil below the embankment assume a cohesion of 230 psf and an internal friction angle of 28 degrees. The strengths for the underlying sand and gravel assume an internal friction angle of 36 degrees with no cohesion.

The strength of the refuse material is based on the observed maximum slopes of the refuse pile which presently exist and by testing the refuse in the laboratory to determine its angle of repose. These slopes are approximately 1.4:1 (horizontal to vertical) which is an angle of approximately 36 degrees to the horizontal. Angle of repose values obtained in the laboratory range from approximately 36 to 42 degrees. An internal friction value of 36 degrees was assumed for the refuse material.

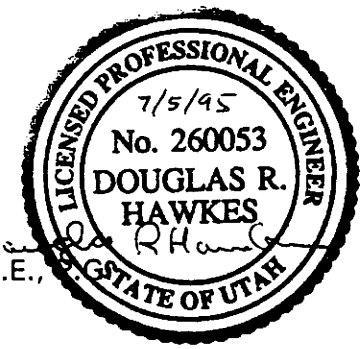
Subsurface water was encountered at a depth of approximately 15 feet below the base of the existing coal refuse pile. No free water was observed within excavations in the coal refuse material. Our analysis assumes that drainage will be provided on and around the refuse pile by sloping the top of the pile to drain and diverting any drainages that lead to the pile away from the pile. If water were allowed to build up in the refuse material, flatter slopes would be required.

Slope stability analysis was conducted using the modified Janbu method of analysis. Stability calculations indicate that the refuse pile is stable under its present condition. The foundation soils have a safety factor against failure of greater than 1.5. Refuse slopes of 2:1 (horizontal to vertical) and flatter have a safety factor against failure of 1.5 and greater. Refuse slopes of 1.4 to 2:1 (horizontal to vertical), which represent the steepest existing slopes, have safety factors against failure greater than 1 indicating they are stable. If these slopes were steepened to result in slope failure, the failure would occur as a surface slip. Such a slope failure would be of minimal consequence since it would only involve the outer few feet of the refuse material and would not extend into the foundation soil. Revegetation and erosion concerns may dictate the preferred final slope of the refuse pile.

LIMITATIONS

This report has been prepared in accordance with generally accepted soil and foundation engineering practices in the area for the use of the client for design purposes. The conclusions and recommendations included within the report are based on the information obtained from the borings drilled and test pits excavated at the locations indicated on the site plan and the data obtained from laboratory testing.

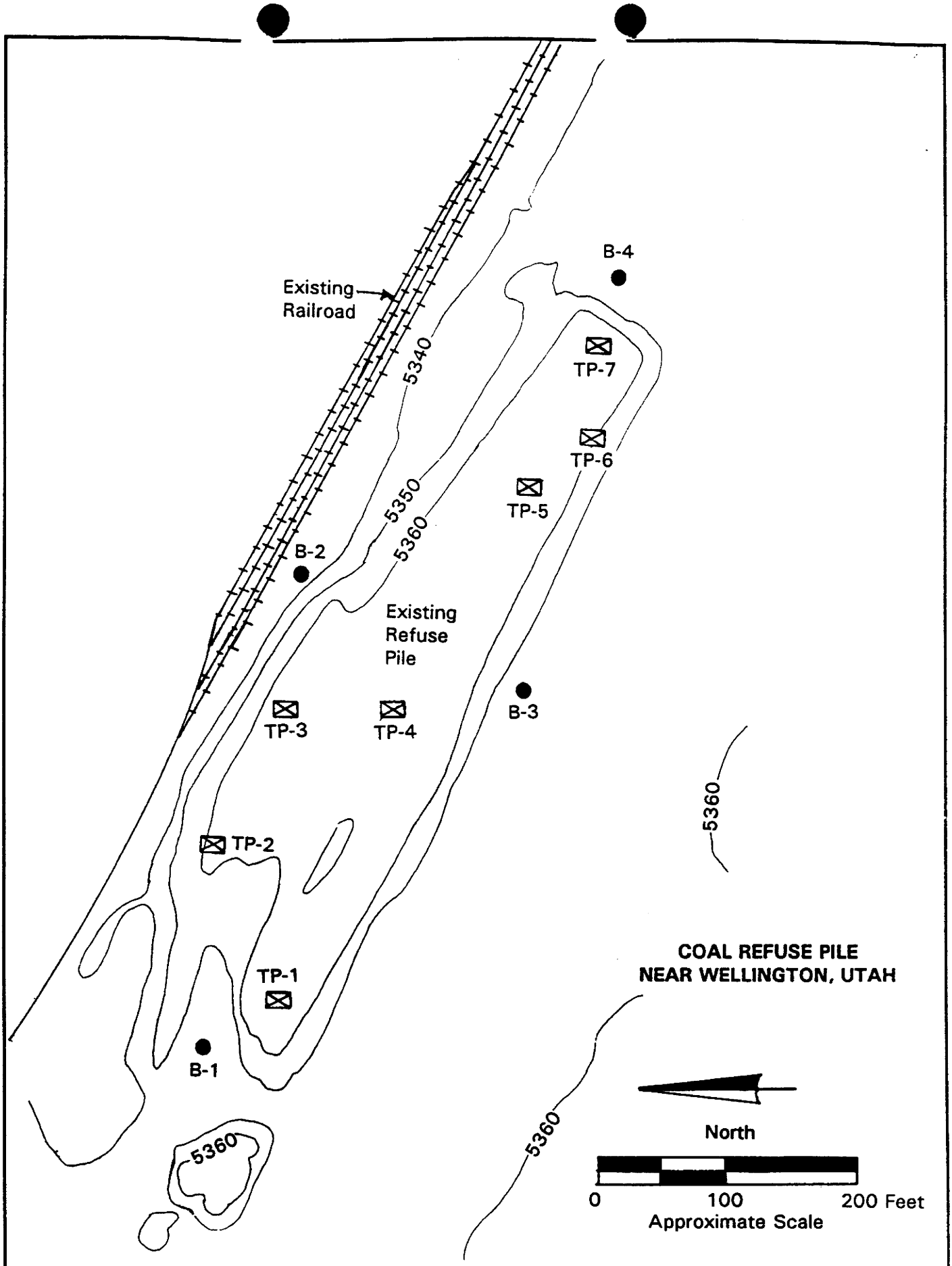
APPLIED GEOTECHNICAL ENGINEERING CONSULTANTS, INC.



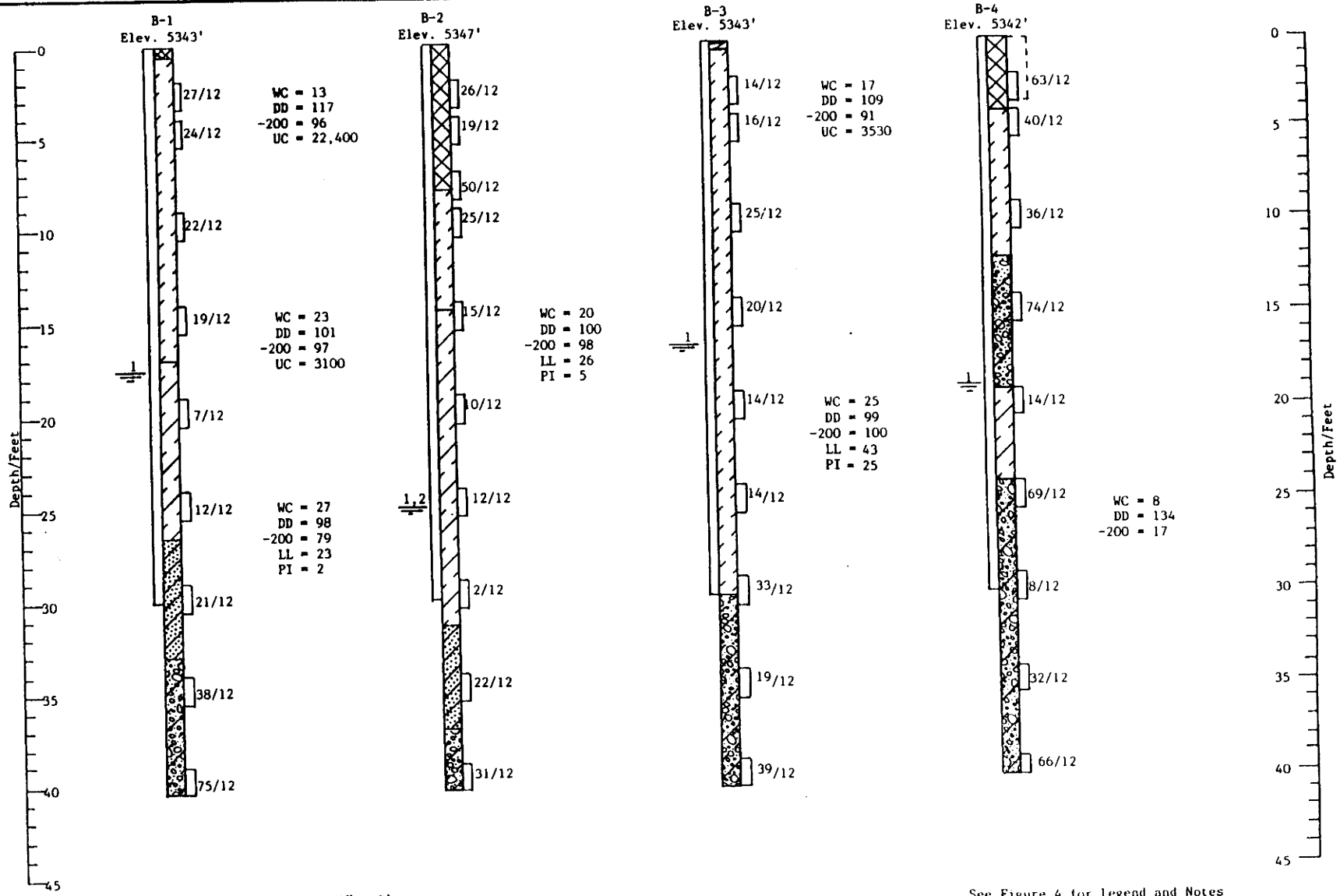
Douglas R. Hawkes, P.E.,

Reviewed by James E. Nordquist, P.E.

DRH/cs



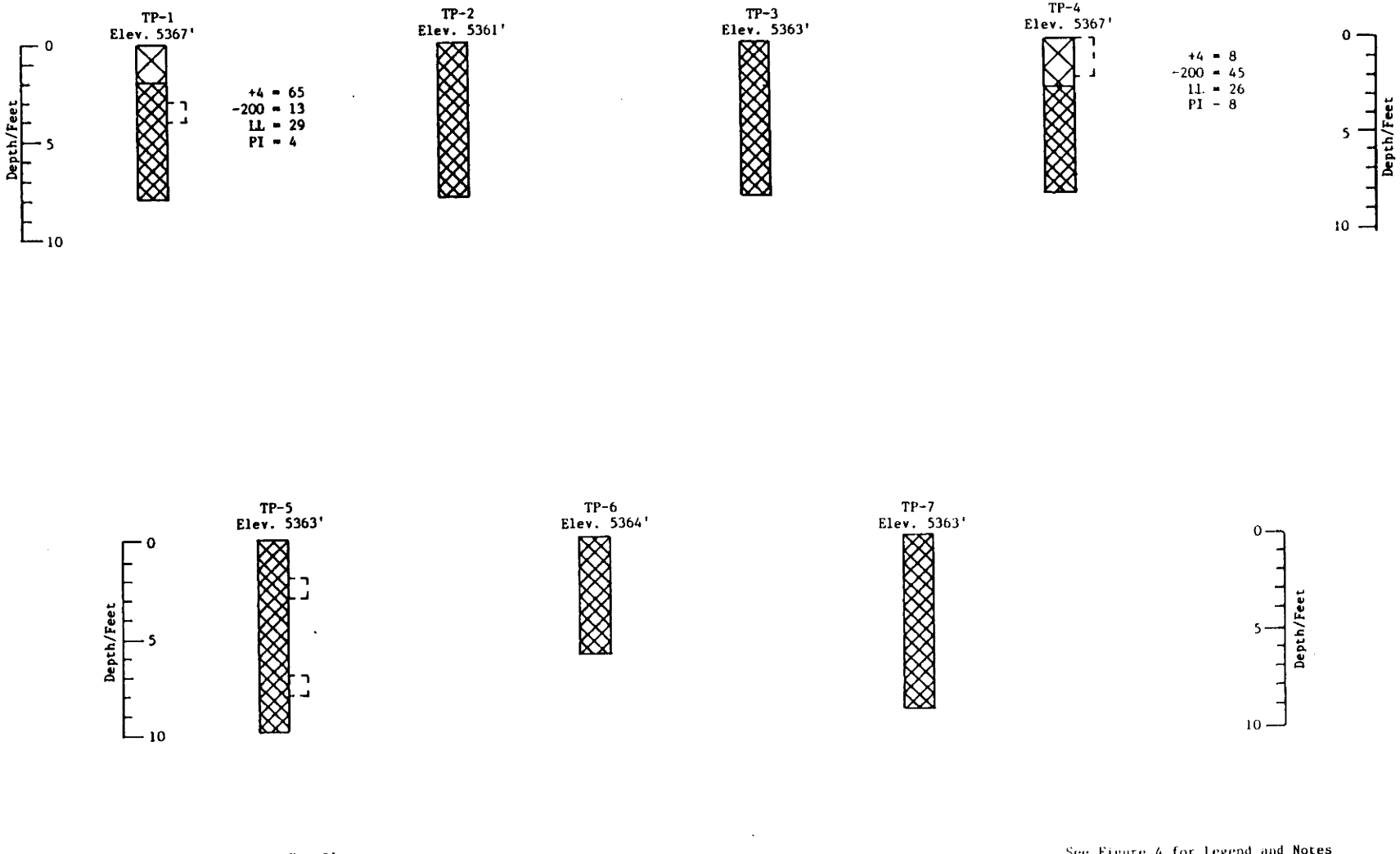
34095	AGEC	Logs of Borings and Tests Pits	Figure 1



Approximate Vertical Scale 1" = 8'

See Figure 4 for Legend and Notes

34095 | ASES | Logs of Exploratory Borings | Figure 2



Approximate Vertical Scale 1" = 8'

See Figure 4 for Legend and Notes

34095	AGES	Logs of Test Pits	Figure 3

LEGEND:


Fill; lean clay to sandy lean clay, occasional gravel, slightly moist, brown to brownish gray.


Fill; silty gravel with sand and cobbles up to approximately one foot in size, moist, dark brown to black, pieces of coal and sandstone.


Topsoil; lean clay with sand, moist, dark brown, roots, organics.


Lean Clay to Sandy Lean Clay (CL); silt and sand layers increasing with depth, stiff to hard, slightly moist to wet, brown to grayish brown.


Interlayered Lean Clay and Sandy Silt (CL/ML); occasional silty sand layers, medium stiff to stiff, moist to wet, brown to gray.


Silty Sand (SM); occasional gravels, medium dense, wet, brown to grayish brown.


Silty to Clayey Gravel with Sand (GM-GC); sand and silt layers, medium to very dense, wet, brown to brownish gray.

California Drive sample taken. The symbol 10/12 indicates that 10 blows from a 140 pound hammer falling 30 inches were required to drive the sampler 12 inches.


Indicates relatively undisturbed hand drive sample taken.


Indicates disturbed sample taken.


Indicates slotted 1½ inch PVC pipe installed in the boring to the depth shown.


Indicates the depth to free water and the number of days after drilling the measurement was taken.

NOTES:

1. Borings were drilled on May 30 and 31, 1995 with 8-inch diameter hollowstem auger. Test pits were excavated on May 31, 1995 with a rubber-tired backhoe.

2. Locations of borings and test pits were measured approximately by pacing from features shown on the site plan provided.

3. Elevations of borings and test pits were determined by interpolating between contours shown on the site plan provided.

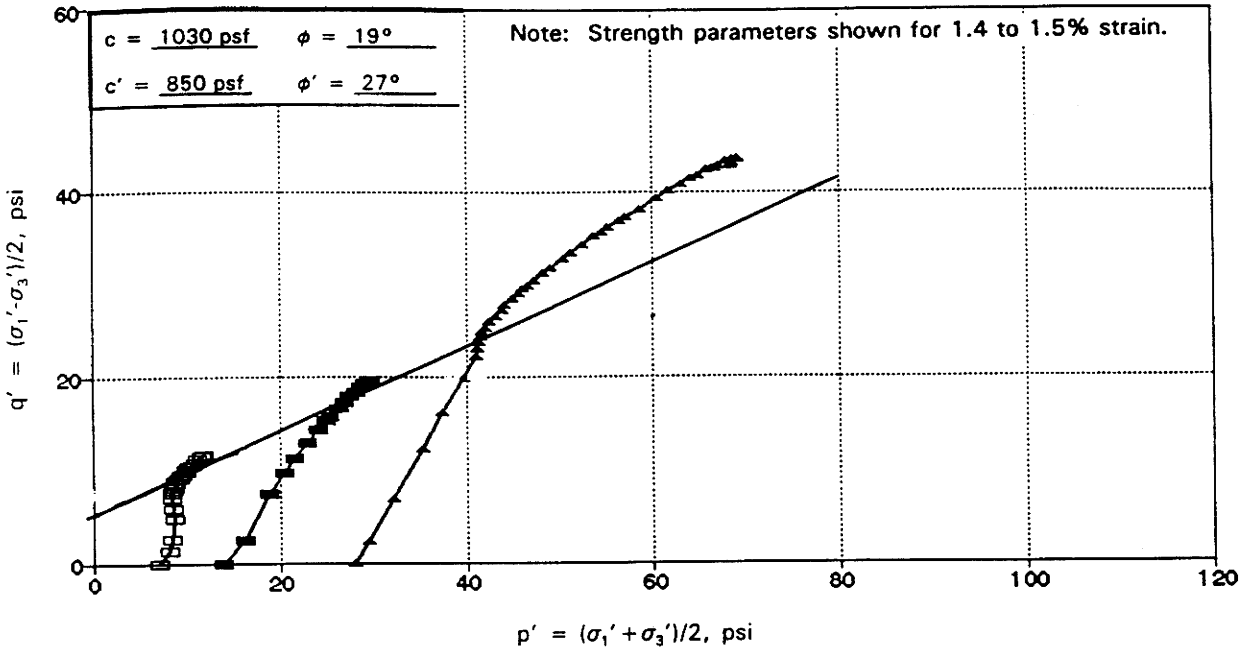
4. The boring and test pit locations and elevations should be considered accurate only to the degree implied by the method used.

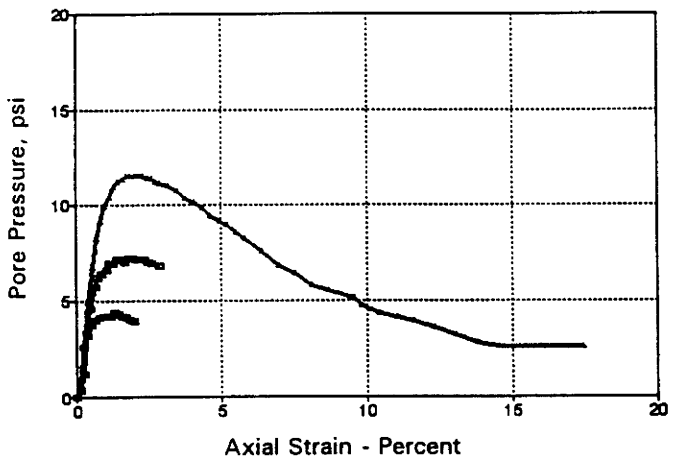
5. The lines between the materials shown on the logs represent the approximate boundaries between material types and the transitions may be gradual.

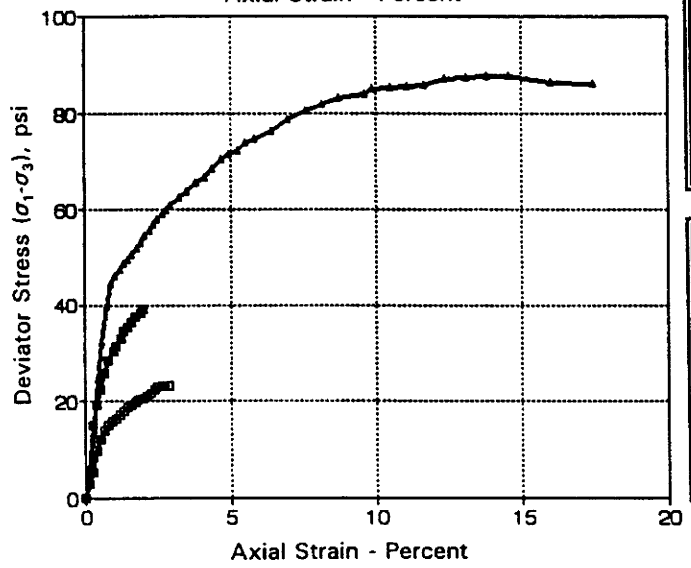
6. Water level readings shown on the logs were made at the time and under the conditions indicated. Fluctuations in the water level may occur with time.

7. WC = Water Content (%);
   DD = Dry Density (pcf);
   -200 = Percent Passing No. 200 Sieve;
   LL = Liquid Limit (%);
   PI = Plasticity Index (%);
   UC = Unconfined Compressive Strength (psf);
   WSS = Water Soluble Sulfate (ppm).

Applied Geotechnical Engineering Consultants, Inc.







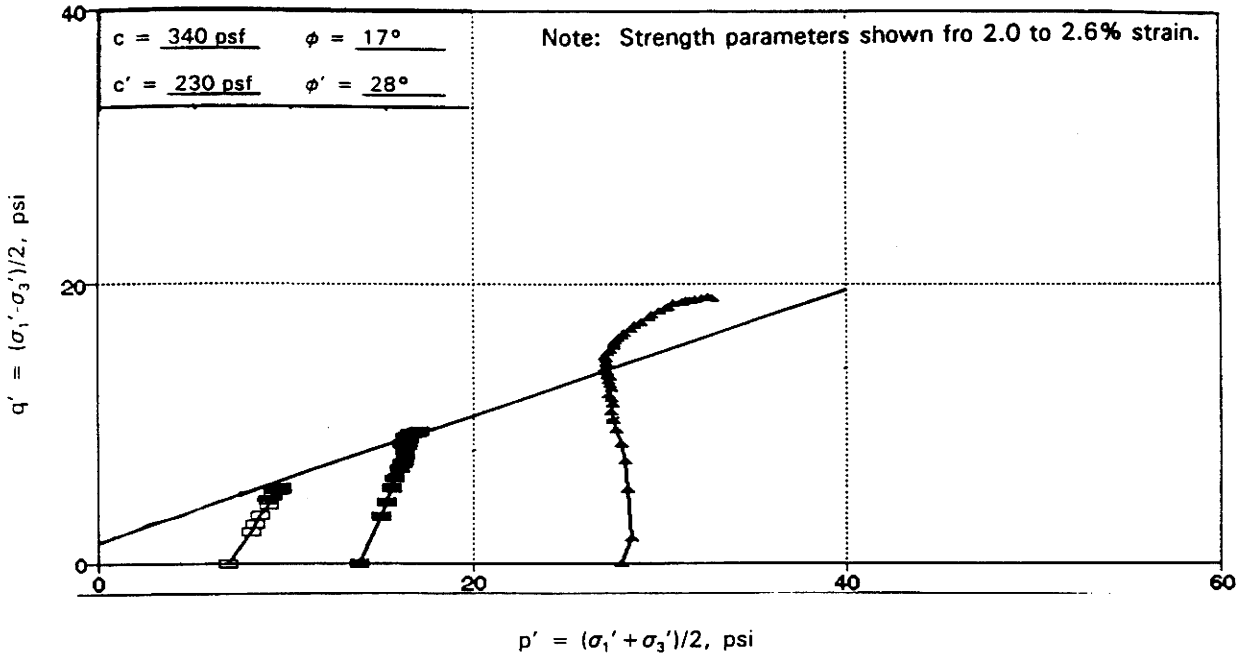
Test No.(Symbol)	1(□)	2(■)	3(▲)
Sample Type	Undisturbed		
Length, in.	3.83		
Diameter, in.	1.93		
Dry Density, pcf	100		
Moisture Content, %	20		
Consol. Pressure, psi	7	14	28
"B" Parameter	.95	.95	.95
Total Conf. Stress(σ_3), psi	7	14	28
Total Axial Stress(σ_1), psi	25.7	49.5	77.4
Deviator Stress(σ_1-σ_3), psi	18.7	35.5	49.4
Eff. Lateral Stress(σ_3'), psi	7	14	28
Eff. Axial Stress(σ_1'), psi	18.6	45.2	66.2
Pore Pressure(μ), psi	7.1	4.3	11.2
Strain(ϵ), %	1.4	1.5	1.5
Remarks	Staged, consolidated, undrained test with pore pressure measurement.		

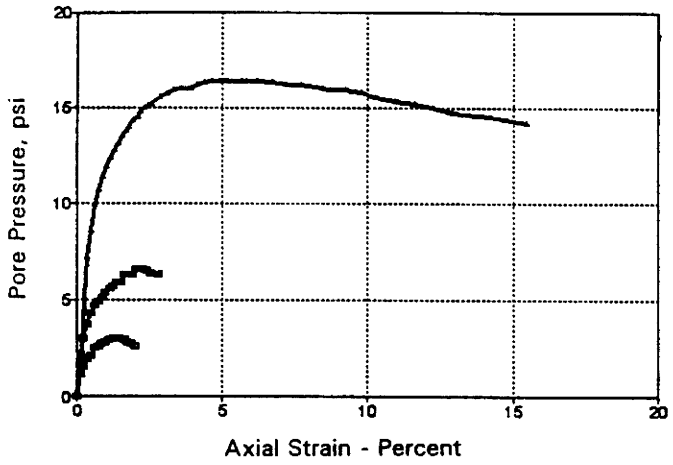
Sample Index Properties	
Natural Dry Density, pcf	100
Natural Moisture Content, %	20
Liquid Limit, %	26
Plasticity Index, %	5
Percent Gravel	-
Percent Sand	-
Percent Passing No. 200 Sieve	98

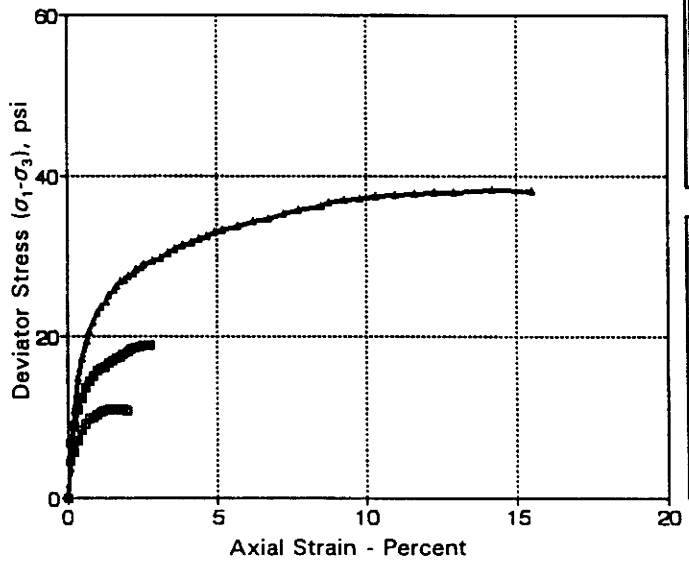
Sample Description Silty Clay From B-2 @ 14 feet

Project No. 34095 TRIAXIAL COMPRESSION TEST RESULTS Figure 5

Applied Geotechnical Engineering Consultants, Inc.







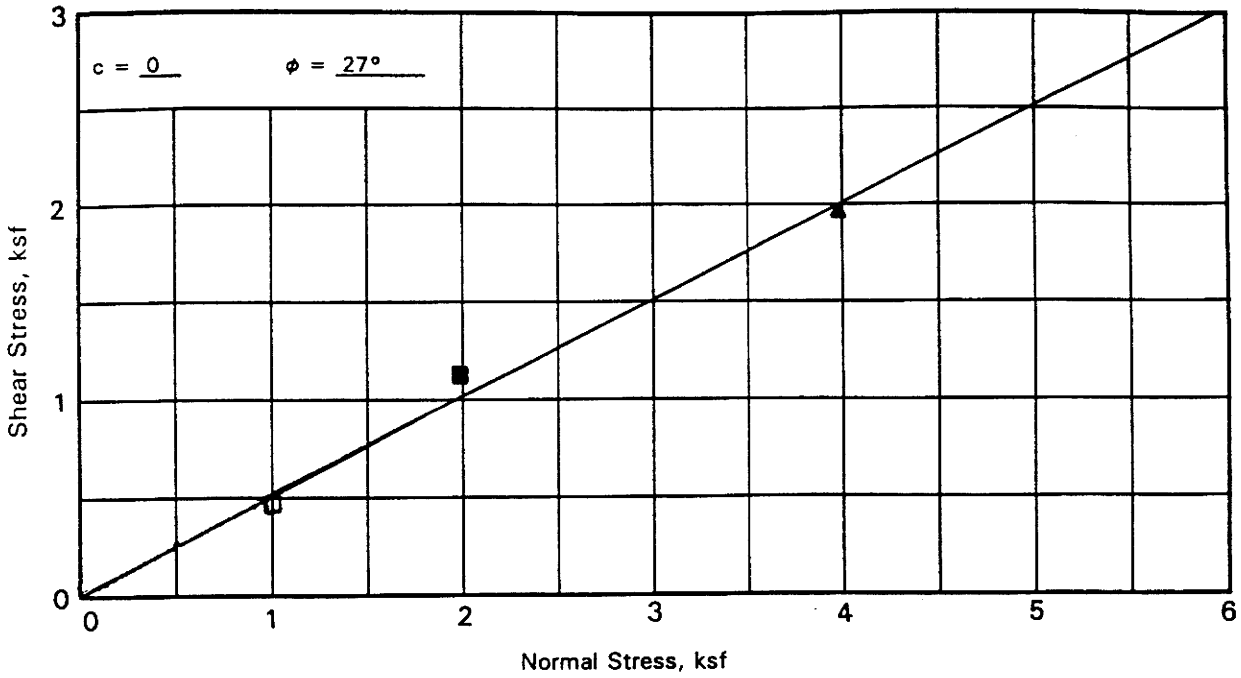
Test No.(Symbol)	1(□)	2(■)	3(▲)
Sample Type	Undisturbed		
Length, in.	4.0		
Diameter, in.	1.93		
Dry Density, pcf	99		
Moisture Content, %	25		
Consol. Pressure, psi	7	14	28
"B" Parameter	.95	.95	.95
Total Conf. Stress(σ_3), psi	7	14	28
Total Axial Stress(σ_1), psi	17.9	32.9	56.8
Deviator Stress(σ_1-σ_3), psi	10.9	18.9	28.8
Eff. Lateral Stress(σ_3'), psi	7	14	28
Eff. Axial Stress(σ_1'), psi	15.3	26.5	41.6
Pore Pressure(μ), psi	2.6	6.4	15.2
Strain(ϵ), %	2.0	2.5	2.6
Remarks	Staged, consolidated, undrained test with pore pressure measurement.		

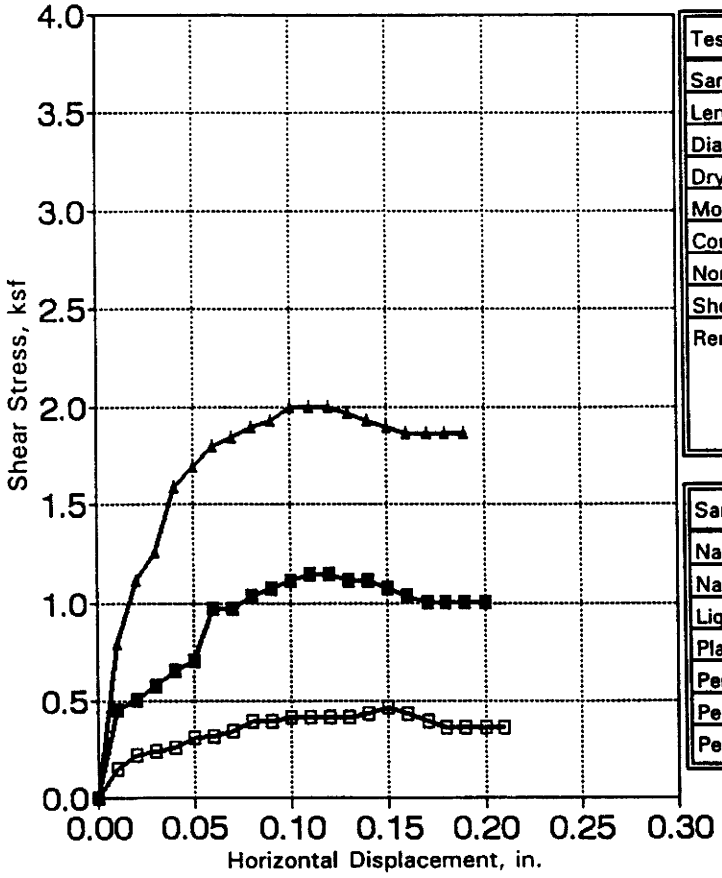
Sample Index Properties	
Natural Dry Density, pcf	99
Natural Moisture Content, %	25
Liquid Limit, %	43
Plasticity Index, %	25
Percent Gravel	-
Percent Sand	-
Percent Passing No. 200 Sieve	100

Sample Description Lean Clay From B-3 @ 19 feet

Project No. 34095 TRIAXIAL COMPRESSION TEST RESULTS Figure 6

Applied Geotechnical Engineering Consultants, Inc.





Test No.(Symbol)	1(□)	2(■)	3(▲)
Sample Type	Remolded		
Length, in.	1.0		
Diameter, in.	1.93		
Dry Density, pcf	81		
Moisture Content, %	16		
Consolidation Load,	1.0	2.0	4.0
Normal Load, ksf	1.0	2.0	4.0
Shear Stress, ksf	0.47	1.14	1.99
Remarks	Remolded to 85% ASTM D-698		
	Sample saturated		
	Strain rate = 0.05 in/min		

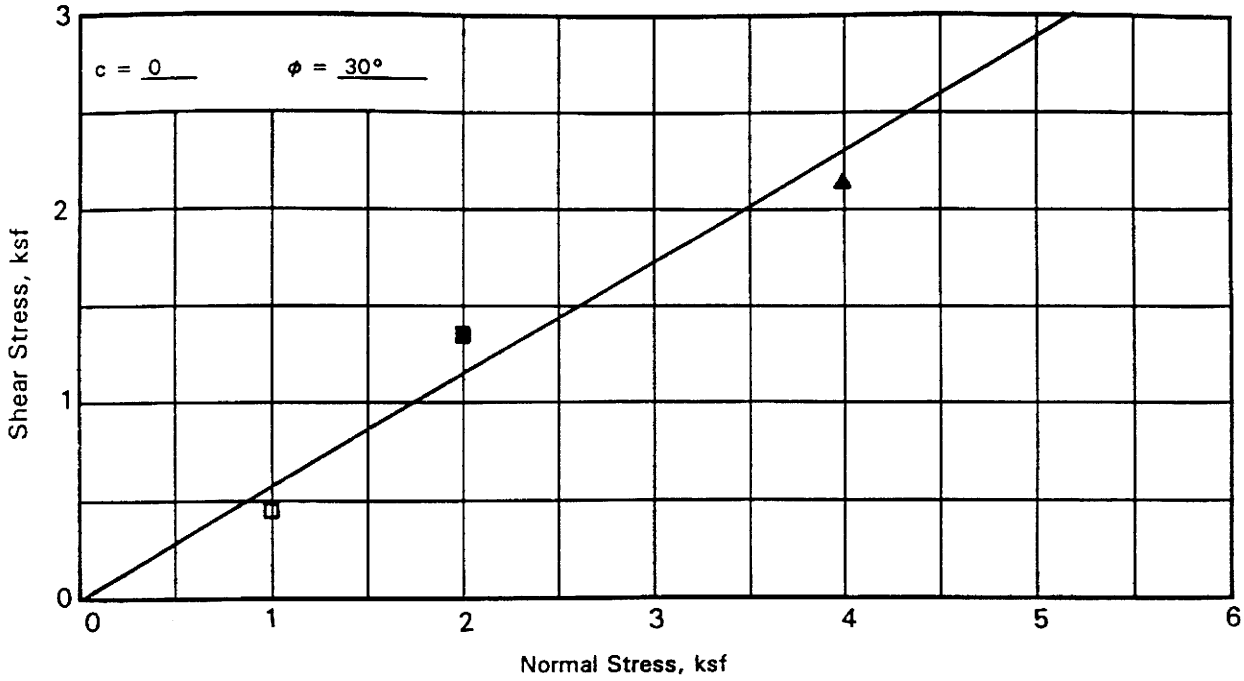
Sample Index Properties	
Natural Dry Density, pcf	-
Natural Moisture Content, %	-
Liquid Limit, %	29
Plasticity Index, %	4
Percent Gravel	-
Percent Sand	-
Percent Passing No. 200 Sieve	-

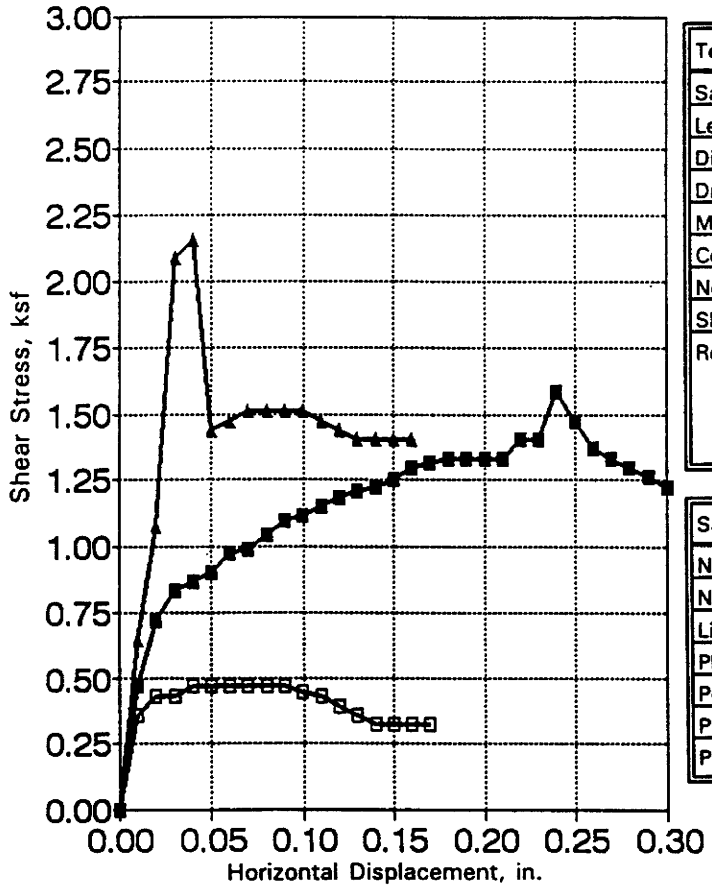
Type of Test Consolidated

Sample Description Refuse material passed through a No. 10 sieve From TP-1 @ 1 to 3 feet

Project No. 34095 DIRECT SHEAR TEST RESULTS Figure 7

Applied Geotechnical Engineering Consultants, Inc.





Test No.(Symbol)	1(□)	2(■)	3(▲)
Sample Type	Remolded		
Length, in.	1.0		
Diameter, in.	1.93		
Dry Density, pcf	86		
Moisture Content, %	16		
Consolidation Load,	1.0	2.0	4.0
Normal Load, ksf	1.0	2.0	4.0
Shear Stress, ksf	0.47	1.33	2.16
Remarks	Remolded to 90% ASTM D-698		
	Sample saturated		
	Strain rate = 0.05 in/min		

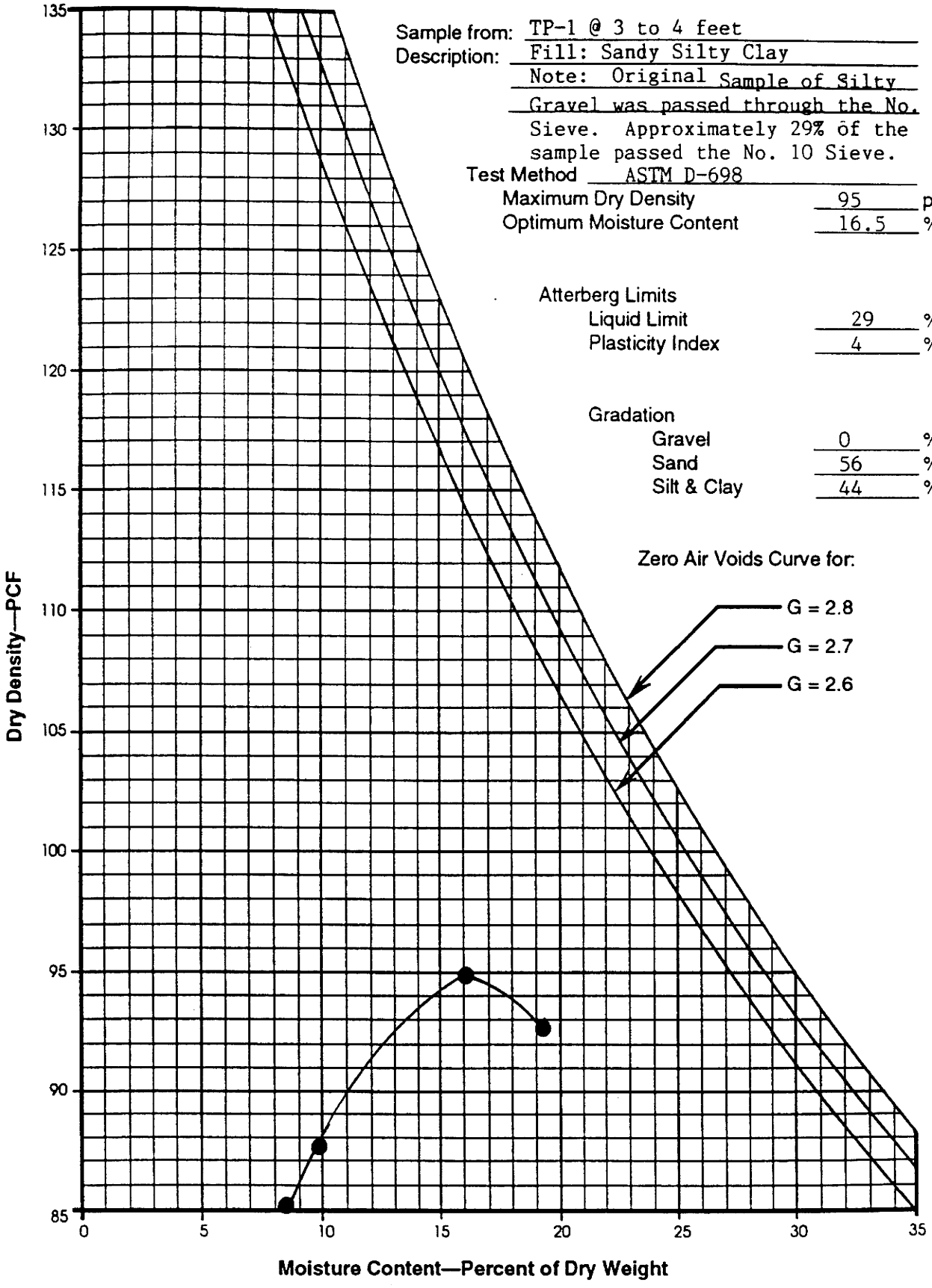
Sample Index Properties	
Natural Dry Density, pcf	-
Natural Moisture Content, %	-
Liquid Limit, %	29
Plasticity Index, %	4
Percent Gravel	-
Percent Sand	-
Percent Passing No. 200 Sieve	-

Type of Test Consolidated

Sample Description Refuse material passed through a No. 10 sieve From TP-1 @ 1 to 3 feet

Project No. 34095 DIRECT SHEAR TEST RESULTS Figure 8

Applied Geotechnical Engineering Consultants, Inc.



Sample from: TP-1 @ 3 to 4 feet
Description: Fill: Sandy Silty Clay
Note: Original Sample of Silty Gravel was passed through the No. 10 Sieve. Approximately 29% of the sample passed the No. 10 Sieve.
Test Method ASTM D-698

Maximum Dry Density	95	pcf
Optimum Moisture Content	16.5	%

Atterberg Limits

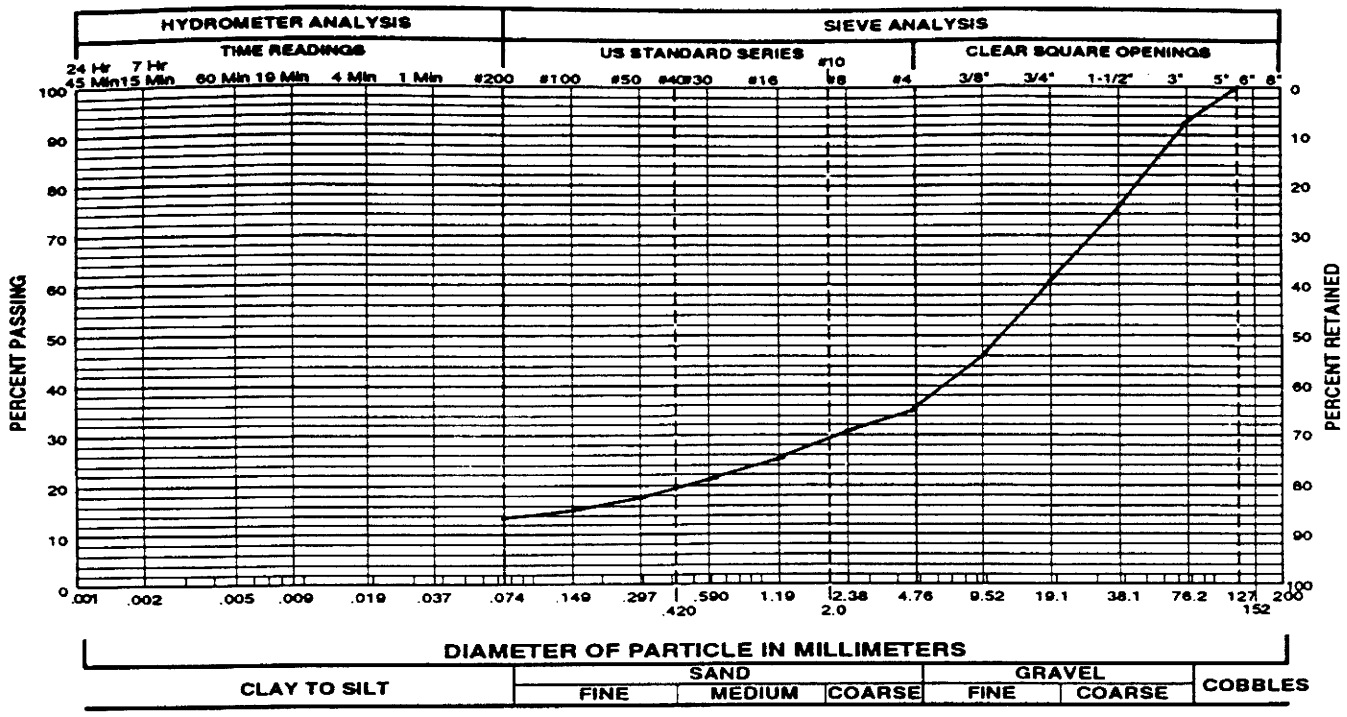
Liquid Limit	29	%
Plasticity Index	4	%

Gradation

Gravel	0	%
Sand	56	%
Silt & Clay	44	%

Project No. 34095 **COMPACTION TEST RESULTS** Figure 9

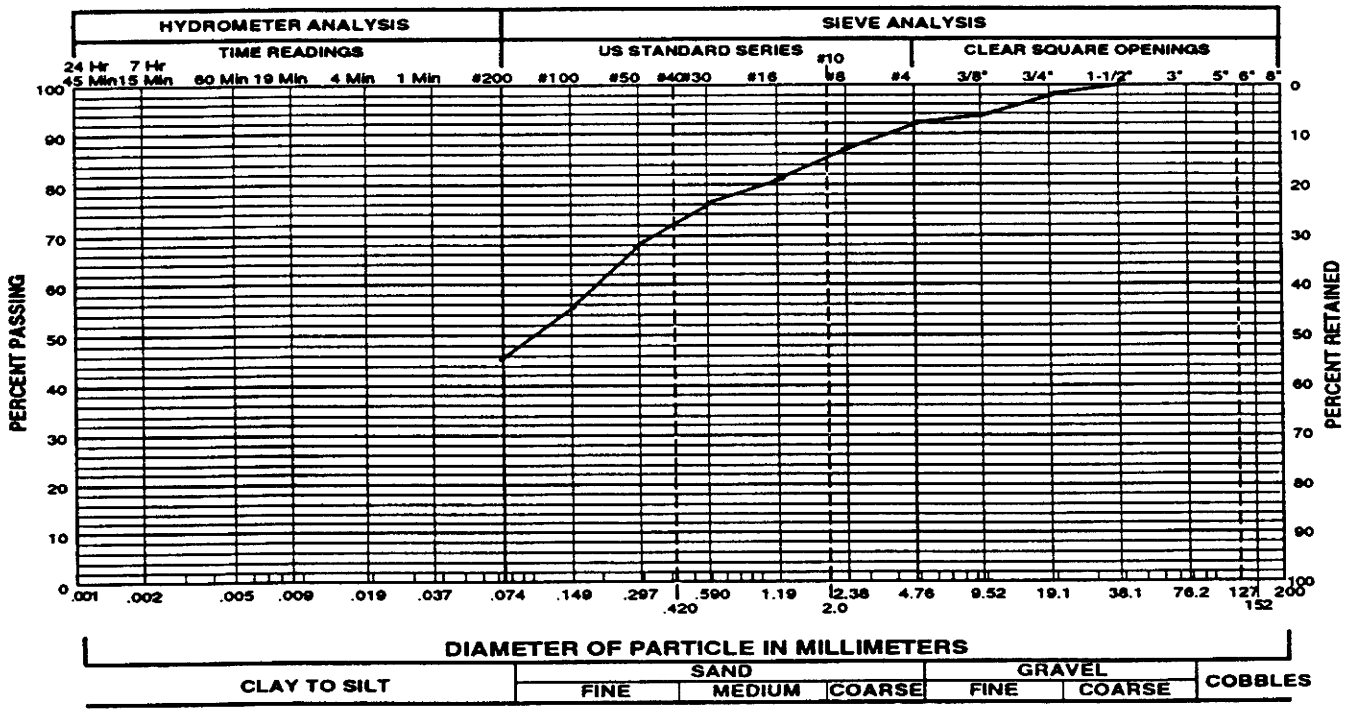
Applied Geotechnical Engineering Consultants, Inc.



Gravel 65 % Sand 22 % Silt and Clay 13 %

Liquid Limit 29 % Plasticity Index 4 %

Sample of Refuse Material, Gravel with Sand From TP-1 @ 3' - 4'



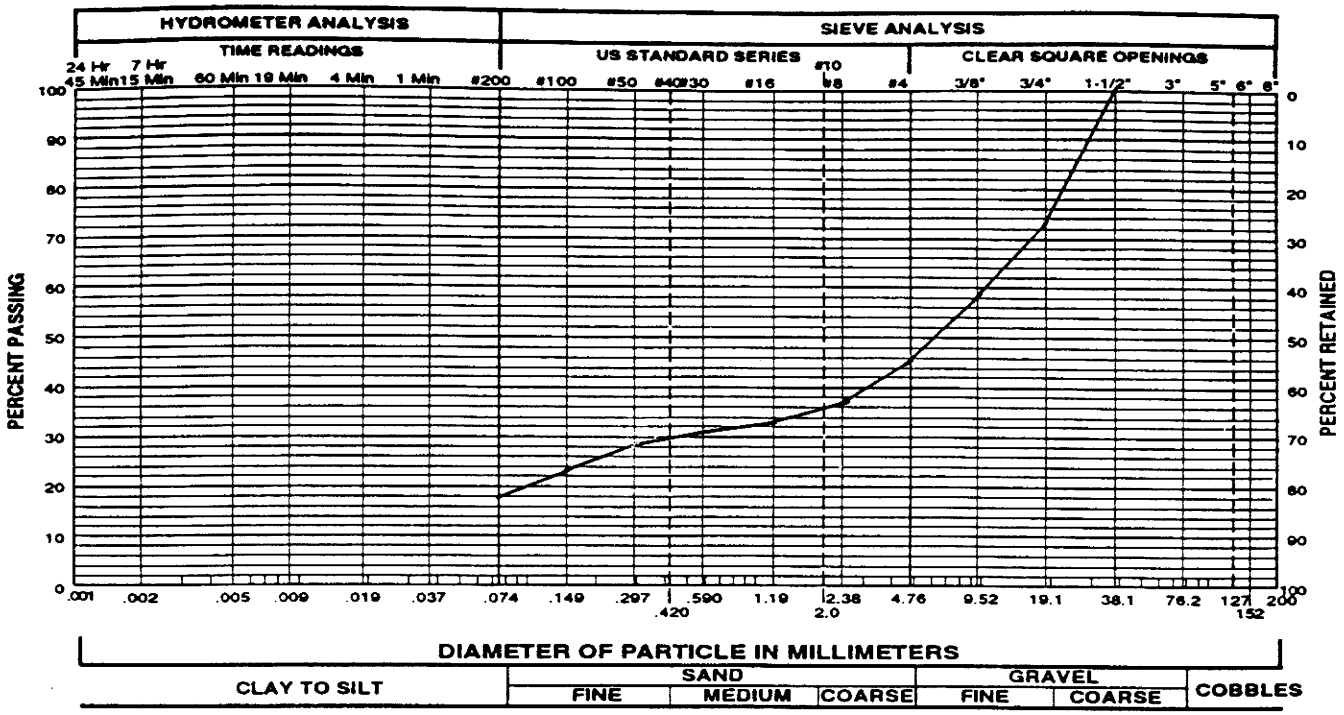
Gravel 8 % Sand 47 % Silt and Clay 45 %

Liquid Limit 26 % Plasticity Index 8 %

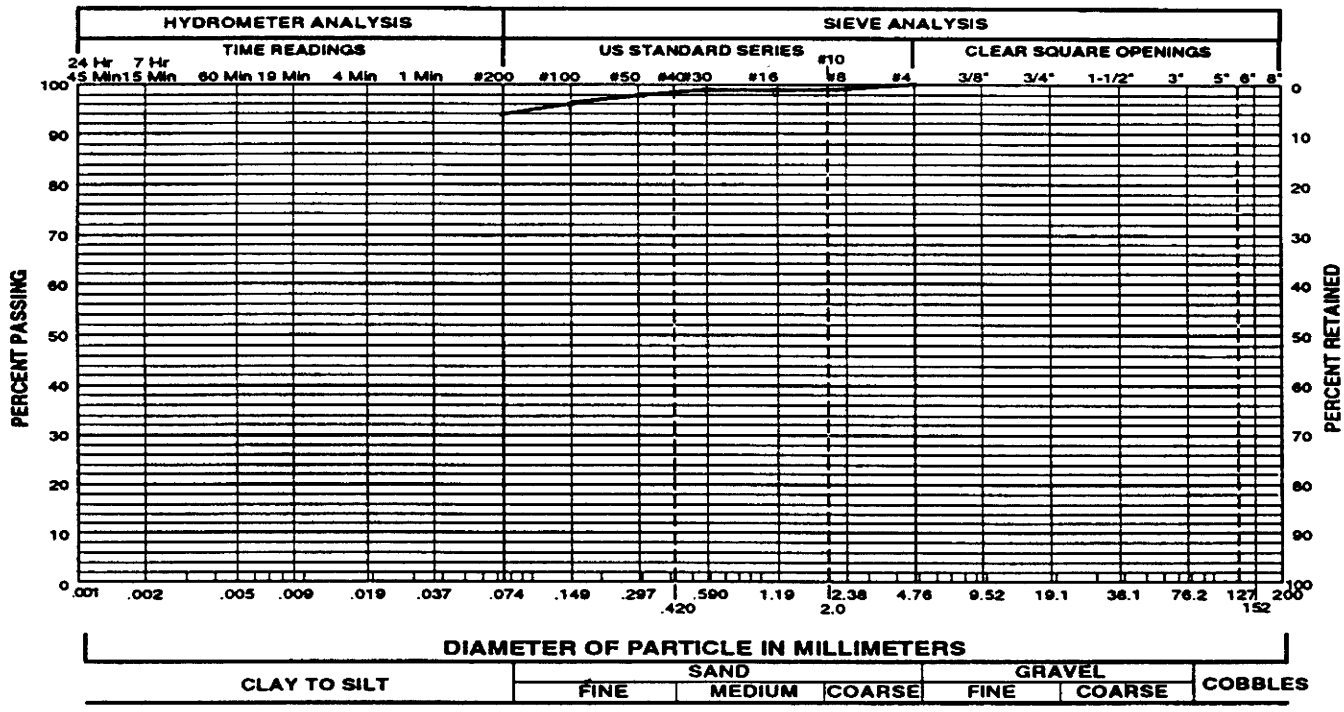
Sample of Fill, Clayey Sand From TP-4 @ 0' - 2'

Project No. 34095 **GRADATION TEST RESULTS** Figure 10

Applied Geotechnical Engineering Consultants, Inc.



Gravel 55 % Sand 28 % Silt and Clay 17 %
Liquid Limit _____ % Plasticity Index _____ %
Sample of Clayey Gravel with Sand From B-4 @ 24'



Gravel 0 % Sand 6 % Silt and Clay 94 %
Liquid Limit 33 % Plasticity Index 16 %
Sample of Fill; Lean Clay From Fill from west-central portion of refuse pile

Project No. 34095 **GRADATION TEST RESULTS** Figure 11

APPLIED GEOTECHNICAL ENGINEERING CONSULTANTS, INC.

TABLE I

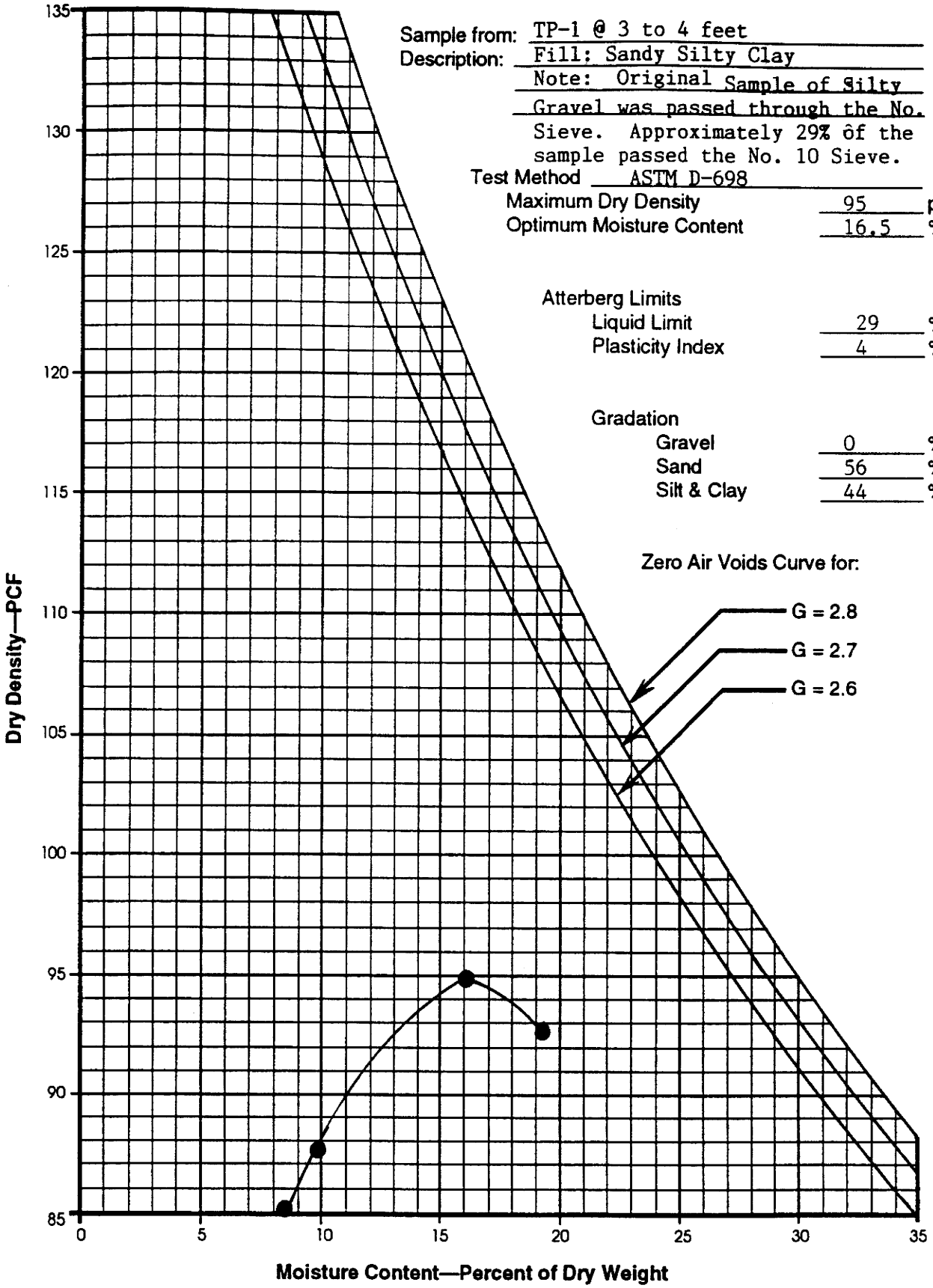
SUMMARY OF LABORATORY TEST RESULTS

PROJECT NUMBER 34095

SAMPLE LOCATION		NATURAL MOISTURE CONTENT (%)	NATURAL DRY DENSITY (PCF)	GRADATION			ATTERBERG LIMITS		UNCONFINED COMPRESSIVE STRENGTH (PSF)	SAMPLE CLASSIFICATION
BORING/ TEST PIT	DEPTH (FEET)			GRAVEL (%)	SAND (%)	SILT/ CLAY (%)	LIQUID LIMIT (%)	PLASTICITY INDEX (%)		
B-1	2	13	117			96			22,400	Lean Clay
	14	23	101			97			3,100	Lean Clay
	24	27	98			79	23	2		Silt with Sand
B-2	14	20	100			98	26	5		Silty Clay
B-3	2	17	109			91			3,530	Lean Clay
	19	25	99			100	43	25		Lean Clay
B-4	24	8	134	55	28	17				Clayey Gravel with Sand
TP-1	3-4			65	22	13	29	4		Refuse material; Silty Gravel wit Sand
TP-4	0-2			8	47	45	26	8		Fill; Clayey Sand
West Central*				0	6	94	33	16		Fill; Lean Clay

*Sample obtained from fill pile at the west-central portion of the refuse pile.

Applied Geotechnical Engineering Consultants, Inc.



Sample from: TP-1 @ 3 to 4 feet
Description: Fill: Sandy Silty Clay
Note: Original Sample of Silty Gravel was passed through the No. 10 Sieve. Approximately 29% of the sample passed the No. 10 Sieve.

Test Method ASTM D-698

Maximum Dry Density	95	pcf
Optimum Moisture Content	16.5	%

Atterberg Limits

Liquid Limit	29	%
Plasticity Index	4	%

Gradation

Gravel	0	%
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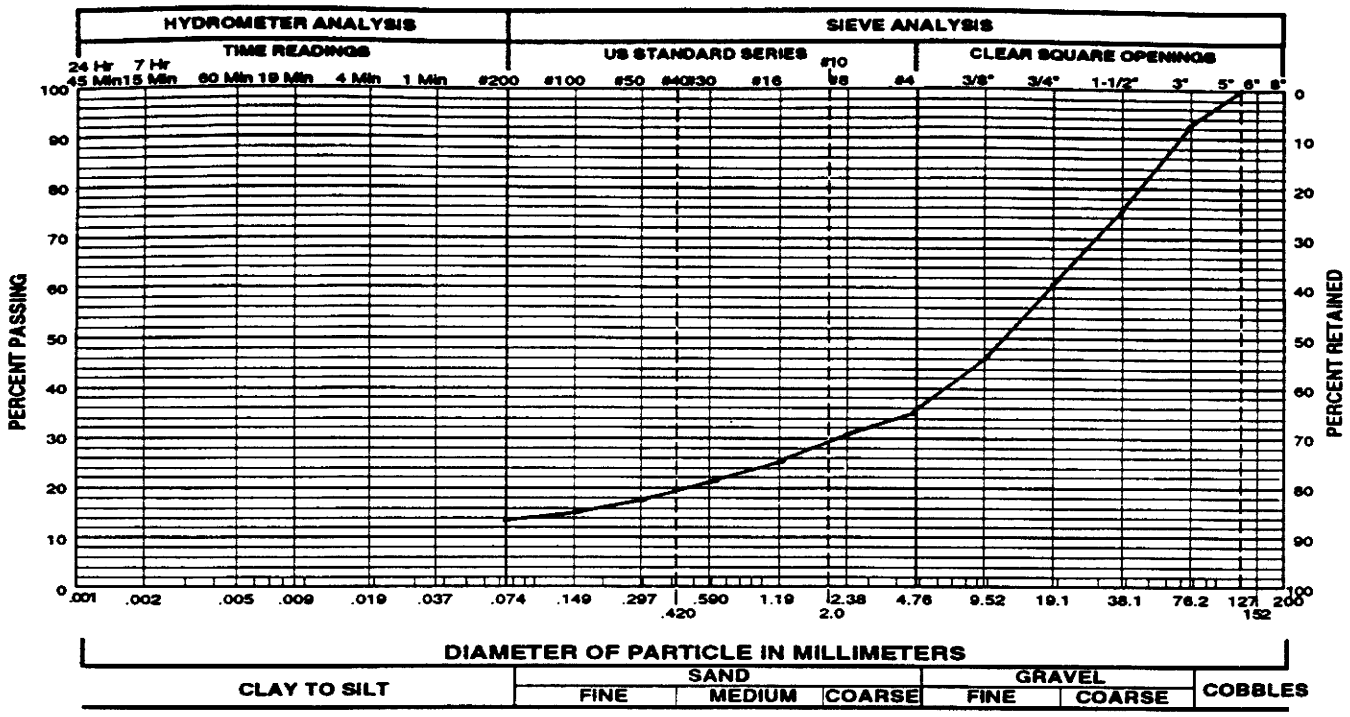
Silt & Clay	44	%

Project No. 34095 **COMPACTION TEST RESULTS** Figure 9

Applied Geotechnical Engineering Consultants, Inc.



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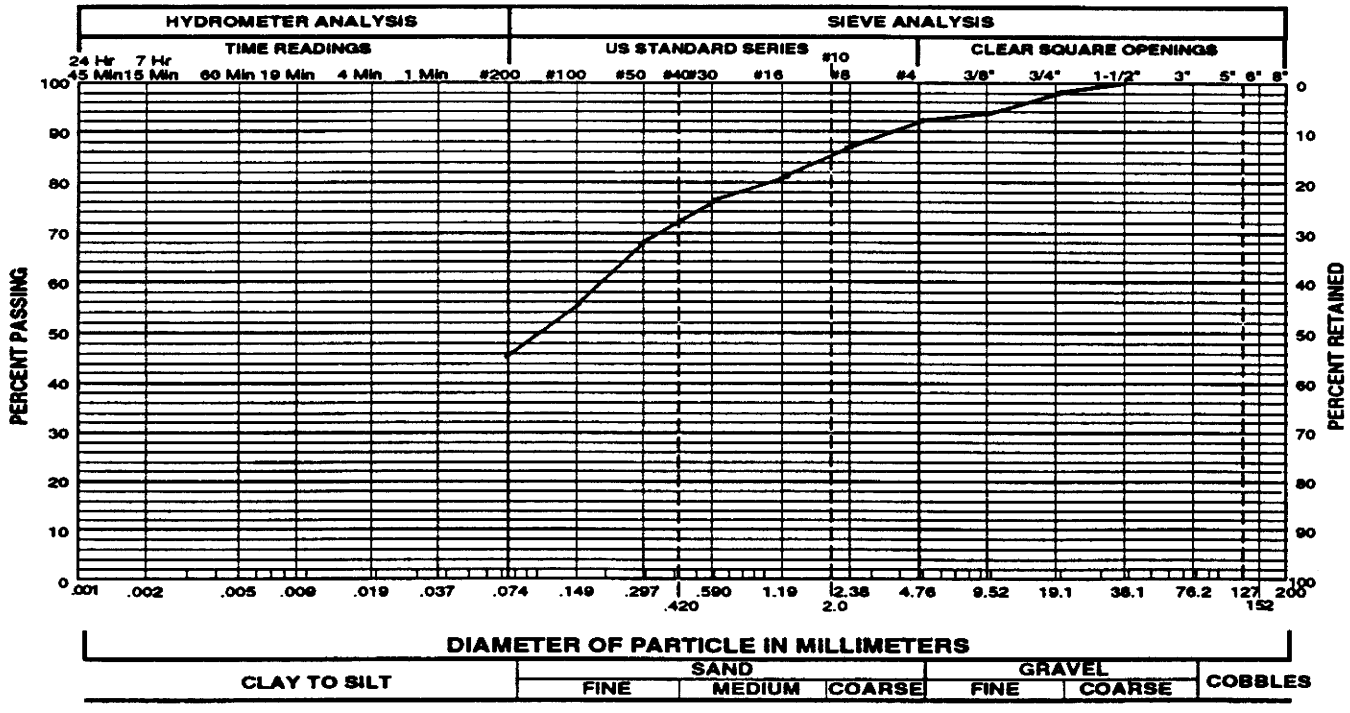

Gravel 8 % Sand 47 % Silt and Clay 45 %
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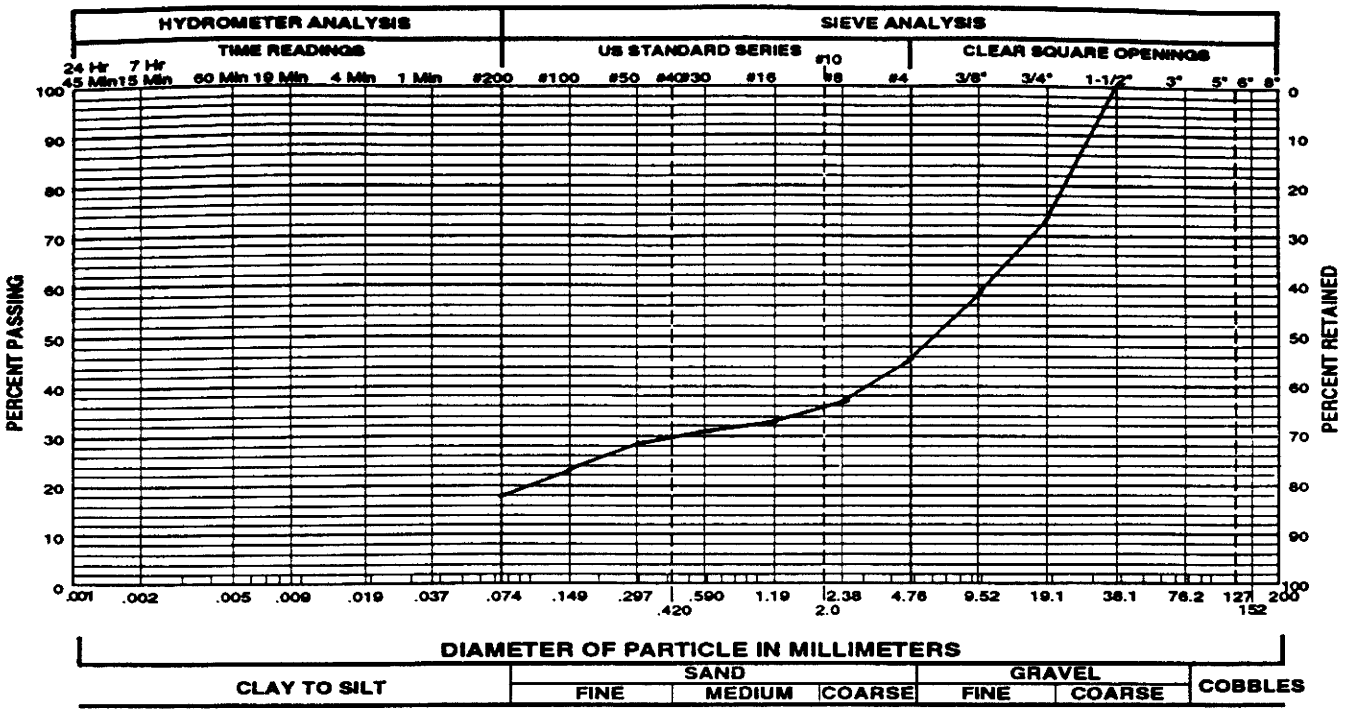
Project No. 34095 **GRADATION TEST RESULTS** Figure 10

Applied Geotechnical Engineering Consultants, Inc.



Gravel 55 % Sand 28 % Silt and Clay 17 %
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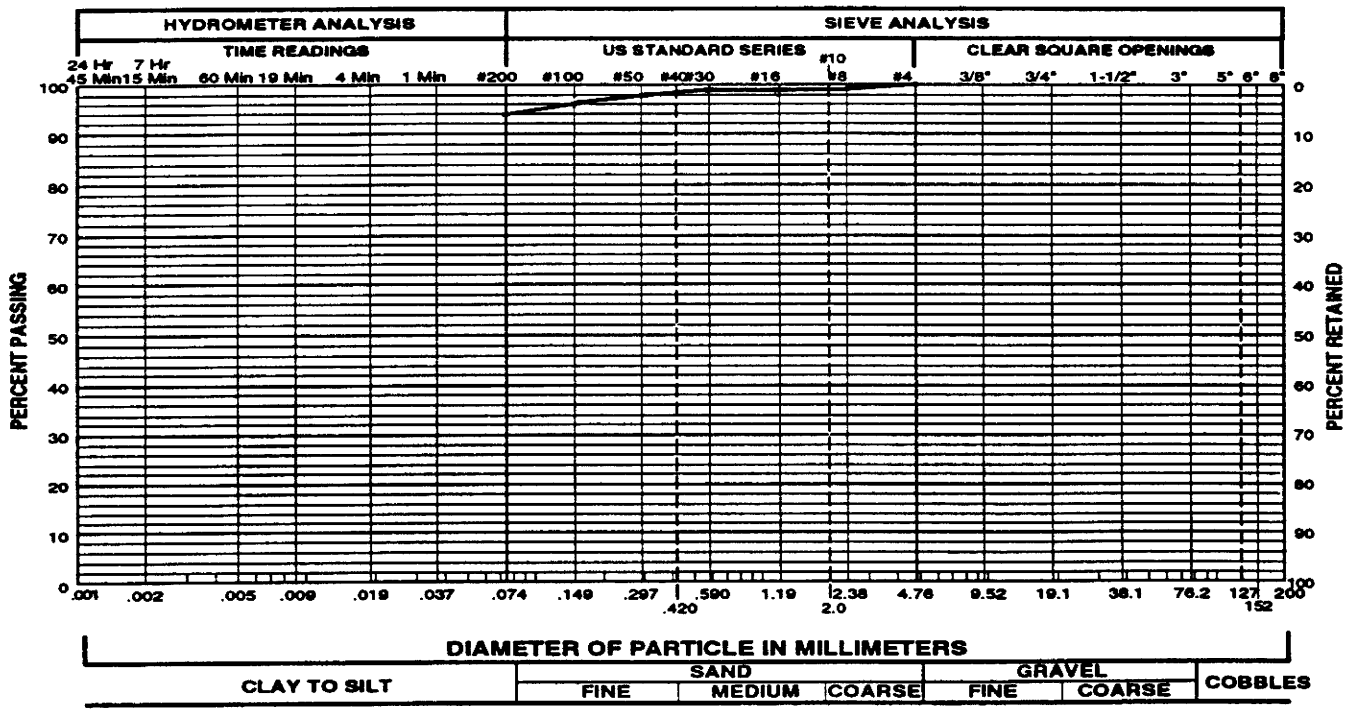
Sample of Clayey Gravel with Sand From B-4 @ 24'



Gravel 0 % Sand 6 % Silt and Clay 94 %
Liquid Limit 33 % Plasticity Index 16 %
Sample of Fill; Lean Clay From Fill from west-central portion of refuse pile

Project No. 34095 **GRADATION TEST RESULTS** Figure 11

APPLIED GEOTECHNICAL ENGINEERING CONSULTANTS, INC.

TABLE I

SUMMARY OF LABORATORY TEST RESULTS

PROJECT NUMBER 34095

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West Central*				0	6	94	33	16		Fill; Lean Clay
*Sample obtained from fill pile at the west-central portion of the refuse pile.										

EXHIBIT C

BEFORE THE DIVISION OF OIL GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH

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IN THE MATTER OF THE APPEAL OF FACT OF VIOLATION N95-39-2-2, NEVADA ELECTRIC INVESTMENT COMPANY, WELLINGTON PREPARATION PLANT	:	FINDINGS, CONCLUSIONS, AND ORDER
	:	CAUSE NO. ACT/007/012

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On November 3, 1995, the Division of Oil, Gas and Mining ("Division") held an informal hearing concerning the fact of violation issued to Nevada Electric Investment Company ("NEICO") for the above-referenced Notice of Violation ("NOV"). The following individuals attended:

Presiding:	James W. Carter Director
Petitioner:	Denise Dragoo, Esq. Patrick D. Collins Greg Poole
Division:	Joe Helfrich Steve Demczak Daron Haddock Sharon Falvey

The Findings, Conclusions, and Order in this matter are based on information provided by the Petitioner in connection with this informal hearing and on information in the files of the Division.

FINDINGS OF FACT

1. Notice of this hearing was properly given.

2. Violation N95-39-2-2, part 2 of 2, was written for "Failure to maintain slopes of 2H:1V" on the outslope of the coarse refuse pile adjacent to the railroad tracks in the permit area. The Violation cited rules R645-301-536.800 and R645-301-553.250.

3. R645-301-553.250 provides: "553.251. The final configuration for the refuse pile will be suitable for the approved postmining land use....The grade of the outslope between terrace benches will not be steeper than 2h:1v (50 percent)."

4. R645-301-536.800 refers to R645-301-528.322 which provides: "Refuse Piles. Each pile will meet the requirements of MSHA, 30 CFR 77.214 and 30 CFR 77.215..." 30 CFR 77.215 provides, in pertinent part: "(h) After October 31, 1975 new refuse piles and additions to existing refuse piles shall be constructed in compacted layers not exceeding 2 feet in thickness and shall not have any slope exceeding 2 horizontal to 1 vertical (approximately 27 degrees) except that the District Manager may approve construction of a refuse piles in compacted layers exceeding 2 feet in thickness and with slopes exceeding 27 degrees where engineering data substantiates that a minimum safety factor of 1.5 for the refuse pile will be attained."

5. Although NEICO has submitted to the Division engineering data concerning the refuse pile, no approval by the District Manager of MSHA has yet been submitted to the Division.

CONCLUSIONS OF LAW

1. R645-301-553.250 requires that refuse pile slopes be no steeper than 2 horizontal to 1 vertical at "final configuration" in preparation for reclamation, but does not

require that such slopes be maintained at 2h:1v at all times during the operating phase of the refuse pile.

2. R645-301-536.800, R645-301-528.322 and the MSHA regulations referred to do require the slopes of refuse piles to not exceed 2h:1v during the operating phase, unless the District Manager of MSHA has approved a greater slope.

3. The steeper slope of the refuse pile in question constitutes a violation of R645-301-536.800 and the other regulations referred to therein, but does not constitute a violation of R645-301-553.250.

ORDER

NOW THEREFORE, it is ordered that:

1. NOV N95-39-2-2, part 2 of 2 be upheld.

2. The abatement of N95-39-2-2 be modified to require that, within 30 days, NEICO either 1) submit the approval of the District Manager of MSHA for a steeper slope than 2h:1v based upon engineering data which substantiates a minimum safety factor of 1.5 for the refuse pile will be attained, or 2) regrade the slopes of the refuse pile to achieve slopes no greater than 2 horizontal to 1 vertical.

3. The finalized assessment is due and payable to the Division 30 days from the date of the finalized assessment or this Order, whichever is later.

4. The Petitioner may appeal the determinations of fact of violation and/or the finalized assessments to the Board of Oil, Gas and Mining by filing said appeal within 30 days of the date of this Order, in accordance with statutory and regulatory requirements, including placing the assessed civil penalty in escrow.

SO DETERMINED AND ORDERED this 3rd day of November, 1995.

James W. Carter, Director
Division of Oil, Gas and Mining
State of Utah

CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing FINDINGS, CONCLUSIONS, AND ORDER for Cause No. ACT/007/012 to be mailed first-class, postage prepaid, on the 9th day of November, 1995, to the following:

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